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CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES

BY _____

Attorneys for Plaintiff: VARTKES YEGHIAYAN

UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

VARTKES YEGHIAYAN, an individual,

Plaintiff,

vs.

NATIONAL ARCHIVES AND RECORDS
ADMINISTRATION of the UNITED
STATES OF AMERICA,

Defendant.

CASE NO. **CV08-06248**

COMPLAINT FOR INJUNCTIVE
AND DECLARATORY RELIEF

FREEDOM OF INFORMATION
ACT REQUEST. REQUIREMENT
FOR JUDICIAL ASSISTANCE

RGK
(AGRx)

COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF

Jurisdiction and Venue

1. This is an action under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, for injunctive and other appropriate relief. This Court has both subject matter jurisdiction over this action and personal jurisdiction over the parties pursuant to 5 U.S.C. §§ 552(a)(4)(B) and 552(a)(6)(c)(I). This Court also has jurisdiction over this action pursuant to 28 U.S.C. § 1331. Venue lies in this District under 5 U.S.C. § 552(a)(4)(B).

1 Parties

2 2. Plaintiff, Vartkes Yeghiayan, hereinafter referred to as "Yeghiayan," is an individual
3 residing in the County of Los Angeles, State of California. He is an acknowledged leader of the
4 American Armenian Community, an attorney who has successfully litigated suits in State and
5 Federal courts against US and foreign business establishments that misappropriated monies and
6 personal property of Armenians who died or suffered permanent exile from their homes within
7 the Turkish Ottoman Empire at the hands of the Ottoman Government during the Armenian
8 Genocide period of 1915 to 1923. Yeghiayan is also the author of numerous scholarly articles
9 and books regarding the Armenian Genocide.

10 3. Defendant, National Archives and Records Administration, hereinafter referred to as
11 "National Archives," is an agency within the meaning of U.S.C. § 552(f) of the United States
12 Government responsible for the permanent retention of books, records, documents, and other
13 materials related to the business and history of the United States Government.

14
15 Factual Allegations

16 4. There are several million Americans of Armenian ancestry, living today, whose
17 families lost loved ones and all that their families owned at the hands of the Ottoman Turkish
18 Government between 1915 to 1923, a period known as the Armenian Genocide and, an historical
19 period which coincided with the commencement and conclusion of the First World War, when
20 the Ottoman Empire was for several years allied with the Germans in that global conflict against
21 England, France, and, ultimately, the United States. The Ottoman Government was, during that
22 period, engaged in a brutal campaign to expel or exterminate all Armenians within its Empire,
23 claiming the Armenian people living within its borders were traitors to the Ottoman-German
24 cause. This Ottoman Government succeeded in killing over 1,500,000 of its Armenian residents
25 and forcing millions more to seek refuge around the world, to include the United States.

26 5. The Plaintiff, individually, and as a representative of the Armenian Community in
27 America, is desirous of reviewing documentation and materials within the custody of the
28

1 Defendant, National Archives, which address or reference this horrific event in 20th Century
2 history. Plaintiff is informed and believes that these documents will further identify those other
3 countries having either direct complicity in the Armenian Genocide or which profited by the
4 repugnant actions of the Ottoman Turks toward their own Armenian residents. Plaintiff,
5 Yeghiayan, in his representative capacity, and as an author, is equally desirous of learning of the
6 fate of the over 1,500,000 Armenian victims of the Genocide and the disposition by the Ottoman
7 Turks, the Turkish Republic and other countries of the property and family estates of these
8 victims of the Genocide.

9 6. The Plaintiff, Yeghiayan, is informed and believes that the Defendant, National
10 Archives, is in possession of thousands of documents, to include diplomatic correspondence and
11 cables, executive orders, records of Congressional speeches and debates, all addressing the
12 killing and exploitation of Armenians by the Ottoman Government during the First World War.
13 Plaintiff seeks, as well, reports emanating from the American Embassy in Constantinople
14 addressing the plight of Armenians within the Ottoman Empire during the stated period, and he
15 seeks to review the records of visas issued to Armenians in the Ottoman Empire during the First
16 World War who sought to immigrate to the United States to escape persecution and death at the
17 hands of the Ottoman Turks.

18 7. Plaintiff is further informed and believes that the Defendant retains either records
19 and/or actual inventories of the personal property, to include bank accounts, gold bullion, books,
20 religious articles, icons, artworks, sculpture, and paintings of Armenians residing within the
21 Ottoman Empire which was stolen and misappropriated by the Ottoman Government from the
22 Genocide victims. Much of such property was later transferred to the United States Government
23 by the Ottoman Turks at the conclusion of the First World War as War Reparations to the Allies.
24 Plaintiff requests documents attesting to the identity and location of such properties owned by the
25 victims of the Armenian Genocide, and now in the custody of the United States of America.

26
27 Plaintiff's FOIA Request and Request for Expedited Processing
28

1 8. On or about April 17, 2006, Plaintiff, Yeghiayan, wrote to Defendant, National
2 Archives, seeking any and all documents, in whatever form and manner of retention, that relate to
3 or concern Armenians, residing in Turkey - Ottoman Empire, in the period beginning in 1914 and
4 continuing until 1925, to include diplomatic correspondence, correspondence between countries,
5 reports, deeds, records of bank accounts in the name of Armenian nationals within the stated time
6 period, and all other documents that refer to the deaths or expulsion of Armenians within the
7 Ottoman Empire in what has been called by historians, the Armenian Genocide. A copy of his
8 written request under the Freedom of Information Act (FOIA) is attached hereto as Exhibit "1."

9 9. There is no dispute that the requested records involve a "matter of widespread and
10 exceptional public interest" for millions of Armenian Americans living in the United States.
11 Therefore, Plaintiff is statutorily entitled to the expedited treatment of this FOIA request.

12 10. By letter dated May 3, 2006, the Defendant, National Archives,
13 acknowledged receipt of Plaintiff's FOIA request. A copy of that acknowledgment is
14 attached hereto as Exhibit "2."

15 11. Other than the above referenced acknowledgment by Defendant, Plaintiff has
16 received neither the requested documents nor any other communication either denying the
17 existence of the requested documents nor requesting additional time to comply with the
18 Plaintiff's FOIA demand.

19 12. By letter dated February 12, 2007, Plaintiff wrote to Defendant, National
20 Archives, stating, "It has been over 9 months and we have not been contacted by anyone
21 concerning this matter. We would greatly appreciate it if you, or the appropriate office,
22 could contact us as soon as possible in order to advance our FOIA request." A copy of
23 that letter is attached hereto as Exhibit "3."

24 13. To date, the Plaintiff has received no response to the above-referenced
25 correspondence.

26 14. Thus, notwithstanding Plaintiff's repeated requests, Defendant has neither
27 completed the processing of Plaintiff's FOIA request nor informed Plaintiff of an
28

1 anticipated date for the completion of the processing of the request. Defendant, National
2 Archives, has, without any explanation, exceeded the generally applicable twenty-day
3 deadline for the processing of the FOIA request.

4 15. There is no basis for Defendant to withhold the requested records from
5 Plaintiff.

6
7 **CLAIM FOR RELIEF**

8 Violation of the Freedom of Information Act for
9 Wrongful Withholding of Agency Records

10 16. Plaintiff repeats and realleges paragraphs 1-13.

11 17. The Defendant, National Archives, has wrongfully withheld agency records
12 requested by Plaintiff by failing to comply with the statutory time limit for the processing
13 of FOIA requests.

14 18. Plaintiff has exhausted the applicable administrative remedies, to wit, further
15 demand correspondence, with respect to the Defendant's wrongful withholding of the
16 requested records.

17 19. Plaintiff is entitled to injunctive relief with respect to the release and
18 disclosure of the requested documents.

19
20
21 WHEREFORE, Plaintiff prays that this Court:

22 A. Order the Defendant, National Archives, to process immediately the requested
23 FOIA records requests in their entirety, on an expedited basis;

24 B. Order the Defendant, National Archives, to disclose the requested records in
25 their entirety and make copies available to Plaintiff;

26 C. Provide for expeditious proceedings and processing in this action;

27 D. Award Plaintiff his costs and reasonable attorneys fees incurred in this action;
28

1 E. For such other relief as the Court may deem just and proper.

2
3 DATED: September 22, 2008

Respectfully submitted,
MacCARLEY & ROSEN, PLC

4
5
6 By 

MARK MacCARLEY
Attorney for Plaintiff
VARTKES YEGHIAYAN

YEGHIAYAN

Law Firm

A Professional Law Corporation

April 17, 2006

David Mengel
Special Access and FOIA Staff
National Archives and Records Administration
NWCTF-Room 6350
8601 Adelphi Road
College Park, MD 20740

Re: Freedom of Information Act Request

Dear Mr. Mengel,

I am writing you to ask for your assistance in a matter of profound importance to a significant portion of the American public. As you are aware, in the years 1915-1924, the Government of Ottoman Turkey initiated a systematic campaign in which roughly 1.5 million Armenians were murdered. Throughout the years, this event has been a fundamental and continuous source of anguish for the Armenian-American community. Miraculously, Armenians have thrived within the United States and contributed immensely to this great country. Ironically, the Armenian-American community today stands about 1.5 million strong, the same number killed by the Government of Ottoman Turkey. As a proud American who belongs to this community, I have started my own mission to educate the public about the Armenian people and about the grave injustice that they had endured during the years 1915 through 1924. Together with other active community members, I have founded a non-profit organization that is dedicated to the collection and dissemination of documents and information that relate to this issue.

In order for our non-profit organization to meet our objective I am making a request under the Freedom of Information Act, and any other law that may apply, that you have your historians, archivists, and researchers conduct specific research with the purpose of producing a comprehensive report on this issue. Specifically, I request that the report include any and all documents, in whatever form, that relate to or concern Armenians, in any way, residing in Turkey, or the Ottoman Empire, during the period starting 1914 and extending through 1925. For example, the report should include (but is not limited to) all official and unofficial United States records, diplomatic correspondence, correspondence between corporations, correspondence between countries, notes, reports, deeds, bank accounts, documents relating to Armenian assets, and any other documents that relate to Armenians within Turkey or the Ottoman Empire from 1914 to 1925.

YEGHIAYAN

Law Firm

A Professional Law Corporation

Not too long ago the United States made a similar effort and produced a comprehensive report for the survivors of the Jewish Holocaust. Specifically, an intra-Department study, spearheaded by the National Archives, was undertaken with regard to dormant Swiss bank accounts and gold of victims of the Jewish Holocaust. This project was accomplished by a task force that was set up by President Clinton and headed by Under Secretary Stuart Eizenstat. This study, which is published on the National Archives webpage under the title "Holocaust Era Assets," produced many documents together with a "finding guide." I would appreciate a similar effort.

I thank you for your time and assistance in advance. We will be more than willing to pay any reasonable fees that are in our capacity. If there is anything that I can do please do not hesitate to contact me at the number listed below.

Sincerely,

Vartkes Yeghiayan, Esq.



National Archives and Records Administration

8601 Adelphi Road
College Park, Maryland 20740-6001

MAY 05 2006

May 3, 2006

Vartkes Yeghiayan
Yeghiayan Law Firm
535 North Brand Boulevard, Suite 270
Glendale, CA 91204

Dear Mr. Yeghiayan:

This is in response to your Freedom of Information Act request of April 17, 2006, which was received in this office on May 1, 2006 (our reference number NW 27514).

We have referred your letter to the appropriate office, and that office will reply to you directly.

Sincerely,

A handwritten signature in black ink, appearing to read "John H. Clagett IV".

JOHN H. CLAGETT IV
Archives Specialist
Special Access and FOIA Staff



YEGHIAYAN & ASSOCIATES

A Professional Law Corporation

535 NORTH BRAND BOULEVARD, SUITE 270, GLENDALE, CA 91203
PHONE: (818) 242-7400 WWW.YAPLC.COM FAX: (818) 242-0114

February 12, 2007

John H. Clagett IV
National Archives & Records Administration
8601 Adelphi Road
College Park, Maryland 20740-6001

Reference No: NW 27514

Dear Mr. Clagett,

This letter is in response to your letter dated May 3, 2006 in which you advised us that our Freedom of Information Act request of April 17, 2006 had been received and that the appropriate office would contact us shortly. It has been over 9 months and we have not been contacted by anyone concerning this matter. We would greatly appreciate it if you, or the appropriate office, could contact us as soon as possible in order to advance our FOIA request.

Sincerely,

Vartkes Yeghiayan, Esq
Attorney at Law
YEGHIAYAN & ASSOCIATES, P.C.